

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olas Carayannis	Team: Team # 1	CCRB Case #: 201211218	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/25/2012 6:30 PM	Location of Incident: § 87(2)(b)	Precinct: 103	18 Mo. SOL 2/25/2014	EO SOL 2/25/2014	
Date/Time CV Reported Wed, 08/29/2012 11:49 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/29/2012 11:49 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. An officer			Unknown
3. POM Michael Butler	02535	948725	103 PCT
4. POM Jacob Giannelli	20929	949023	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Mary Humburg	03709	932564	103 PCT
2. SGT Omar Colon	03037	929921	103 PCT
3. POM Adam Gannon	14770	947014	103 PCT
4. POM Christophe Durkin	22440	948925	103 PCT
5. POM Albert Yung	23469	936007	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers pointed their guns at § 87(2)(b) and § 87(2)(b)	
B. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b) and § 87(2)(b)	
C. An officer	Force: An officer struck § 87(2)(b) with a gun.	
D. An officer	Force: An officer pointed his gun at § 87(2)(b)	
E. POM Michael Butler	Force: PO Michael Butler pointed his gun at § 87(2)(b)	
F. POM Michael Butler	Force: PO Michael Butler used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)	
H. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	
I. Officers	Abuse: Officers entered § 87(2)(b) § 87(2)(b) in Queens.	
J. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On August 29, 2012, § 87(2)(b) filed the following complaint with the Civilian Complaint Review Board (CCRB) on behalf of himself, § 87(2)(b) and § 87(2)(b) over the phone (encl. C1-4). On the same day, § 87(2)(b) filed a complaint with the CCRB related to the same incident via the Call Processing System (encl. C1-4).

On August 25, 2012, at 6:30 p.m., officers from the 103rd Precinct entered § 87(2)(b) in Queens and encountered § 87(2)(b) and § 87(2)(b) on the roof, resulting in the following allegations:

Allegation A: Abuse—Officers pointed their guns at § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b), § 87(2)(g)

Allegation B: Discourtesy— Officers spoke discourteously to § 87(2)(b) § 87(2)(b) and § 87(2)(b)

Allegation C: Force— An officer struck § 87(2)(b) with a gun.

Allegation D: Force—An officer pointed his gun at § 87(2)(b)

Allegation G: Force—Officers used physical force against § 87(2)(b) § 87(2)(b) and § 87(2)(b)

Allegation I: Abuse— Officers entered § 87(2)(b) in Queens.

Allegation J: Abuse—An officer threatened to arrest § 87(2)(b) § 87(2)(g)

Allegation E: Force—PO Michael Butler pointed his gun at § 87(2)(b)

Allegation F: Force—PO Michael Butler used physical force against § 87(2)(b) § 87(2)(b)

Allegation H: Abuse—Officers threatened § 87(2)(b) with the use of force.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

This case was reassigned to the undersigned investigator on October 25, 2013 following the departure of Investigator Catherine Twigg.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on September 5, 2012 (encl. C5-12). His statement was consistent with his intake statement provided on August 29, 2012, (encl. C1-4) with any exceptions and additional information.

On August 25, 2012, § 87(2)(b) drove from his home at § 87(2)(b) in Queens to § 87(2)(b) in Queens, a building that he owns, with his cousin, § 87(2)(b). They arrived at about 4:30 p.m. to check on a vacant apartment which § 87(2)(b) is fixing up for rental. Outside this building, § 87(2)(b) coincidentally met § 87(2)(b) and § 87(2)(b) friends who live nearby. § 87(2)(b) and the other men went to the roof of the building.

After about 45 minutes or an hour, the group heard four or five gunshots on 139th Street, close to the intersection with 91st Avenue. They all walked towards the edge of the roof to look. § 87(2)(b) heard what sounded like a female screaming. § 87(2)(b) called 911. While he was speaking with the 911 operator, § 87(2)(b) continued to look towards the area where he heard the gunshots, a view that is slightly impeded by some trees. He observed and informed the 911 operator about a black Toyota Corolla travelling quickly northbound along 139th Street and made a left on 90th Avenue. Within less than five minutes, more than fifteen police cars, mostly marked patrol cars, but also some unmarked cars, responded to the area where the shots had been fired. § 87(2)(b) and his friends returned to a table and chairs where they had been sitting. A few minutes later, § 87(2)(b) left to go home.

About ten minutes later, § 87(2)(b) heard, "Police, police." He also heard banging from inside the building, which sounded like the officers were speaking to the resident of apartment § 87(2)(b) whose last name he did not know, but who was identified by the investigation as § 87(2)(b). § 87(2)(b) heard the officers saying, "Door, door." There is no door at the base of the stairs, only a door at the top of the stairs, through which the roof is accessed. The door was unlocked and standing open at the time.

Between six and eight officers dressed in plainclothes came onto the roof with their guns pointed at the group, shouting for them to get on the ground. Among them were PO Jacob Giannelli, identified by the investigation, and described as a Caucasian male in his early 40s, standing 6' tall, weighing 180 pounds, with an average build and slicked back brown hair, wearing plainclothes, and PO Michael Butler, identified by the investigation, and described as a Caucasian male in his late 20s, standing 6' or 6'2", weighing 220-240 pounds, with a muscular build and short light brown hair in a crew cut, wearing plainclothes. At least four or five of the officers, including PO Giannelli, PO Butler and an unknown officer described as a Caucasian male in his late 40s, standing 6'2" or 6'3" tall, with an overweight build and brown hair, wearing plainclothes, including a baseball cap, were shouting "Get the fuck on the ground" and "Shut the fuck up."

There were four additional unidentified officers in plainclothes, PO1, described as a Caucasian male in his late 30s, standing 5'8", weighing 200 pounds, with an overweight build and short dark brown hair, PO2, a 40-year-old Caucasian male, standing 5'10"-6' tall, weighing 185 pounds, with a medium build and short brown hair, and two Caucasian males, PO3 and PO4,

in their late 30s, standing 5'9"-5'10", with dark brown hair. With them were SGT Mary Humburg, identified by the investigation and described as a 38-year-old Caucasian female, standing 5'4"-5'5", weighing 150-160 pounds, with a slightly overweight body type and long blonde hair in a bun and PO Adam Gannon, identified by the investigation and described as a Caucasian male, standing 5'8", weighing 160-165 pounds, with two-inch-long gelled brown hair. There were also two additional unidentified officers dressed in uniform with pins from the 107th Precinct on their collars, PO5, described as an Asian male in his early 30s, standing 5'9", weighing about 160 pounds, with very short black hair in a crew cut, and PO6, a 35-year-old Caucasian male, standing 6'1"-6'2", weighing 160-170 pounds, with short dark brown or black gelled hair.

The group was sitting at a rectangular table, and § 87(2)(b) was sitting closest to the door, in a chair without armrests. PO1 approached § 87(2)(b) first. This officer grabbed the shoulder of § 87(2)(b) shirt with the same hand that was holding the gun, and pushed the gun up towards § 87(2)(b) face, hitting him with the side of his gun in his left cheek. PO2 kicked § 87(2)(b) left hip or buttocks, knocking him off the chair onto the ground. § 87(2)(b) foot was injured in a prior incident, so he attempted to inform the officers to be careful with his injured foot.

PO Giannelli approached § 87(2)(b) grabbing his shoulder, turning § 87(2)(b)'s back towards himself and pushed him forcefully down to the ground where he was handcuffed.

§ 87(2)(b) got off his chair and began moving towards lying on the ground. § 87(2)(b) was on his knees, getting onto the ground, when PO Butler pushed him in the back, just below his left shoulder blade. § 87(2)(b) was pushed quickly onto the ground, forcing his face to hit the ground. § 87(2)(b) was the only one screaming, asking what was going on. He did not physically resist or hold his arms away from the officers at all. When he was lying on the ground, PO Butler was holding his gun in his left hand and pointed it at § 87(2)(b)'s left temple, close to his eye. PO Butler put his right forearm and elbow on the back left of § 87(2)(b)'s head, hitting his head down, causing the right side of his face to hit the roof. § 87(2)(b) sustained abrasions on his knees and his shoulder from this action. § 87(2)(b) was unsure exactly how he sustained these injuries. § 87(2)(b) was placed in handcuffs.

§ 87(2)(b) was pushed or tackled to the ground by PO3 and PO4 and placed in handcuffs. After § 87(2)(b) was in handcuffs, then these officers picked him up by his wrist and the back of his belt and dragged him about ten feet to the edge of the roof. While there, they asked him where the gun was. These officers kicked him between eight and ten times. The officers were repeatedly asking all of them, "Where's the gun?" § 87(2)(b) responded that there was no gun, and that they would be cooperative. While they lay on the floor and asked them about the guns, the officers punched and kicked § 87(2)(b) and § 87(2)(b). § 87(2)(b) was kicked between six and eight times during this questioning. While § 87(2)(b) was on the ground, he attempted to look around to see what was happening and PO Butler pointed his gun towards § 87(2)(b) and said "Don't fucking move, don't move."

PO Butler asked § 87(2)(b) if they could look in the vacant apartment downstairs, and he said they could go ahead, there was nothing there. § 87(2)(b) said they could check the whole building. Some of the officers left the roof. § 87(2)(b) did not witness their search inside the apartment, but saw them searching on the adjacent building's roof, which is one story lower than his building.

After searching, officers told the men to get up. An unidentified officer instructed § 87(2)(b) to get up and kicked him about four times in the right side of his stomach and ribs, his back, his buttocks and his thigh. The officers told them that they were being arrested, but did not say what the charges were, only that they needed to investigate the shooting. § 87(2)(b) was taken downstairs. § 87(2)(b) was released from his handcuffs because he could not come downstairs in handcuffs due to his injury. When § 87(2)(b) was in front of the building, the officers discussed amongst themselves and then told him to leave. § 87(2)(b) asked what was

going on. Two officers § 87(2)(b) could not recall which ones) told him to get out of the area or they would arrest him too. They said that it would take too much time to take him along, because he would need to go to the hospital. § 87(2)(b) left.

§ 87(2)(b) and § 87(2)(b) were brought to the 103rd Precinct stationhouse. At the stationhouse, § 87(2)(b) saw PO Butler writing him a summons. PO Butler took off § 87(2)(b)'s handcuffs and handed him summons § 87(2)(b), charging him with unauthorized possession of police mace. Neither § 87(2)(b) nor his friends had any police mace on them at any time. § 87(2)(b) looked at the ticket and said, "What police mace?" An officer told § 87(2)(b) to leave or he would be arrested.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)

CCRB Statement

On August 31, 2012, § 87(2)(b) provided the following statement to the CCRB over the phone, and submitted a notarized verification form to the CCRB (encl. C20-23).

Between 8-12 Caucasian male police officers in plainclothes, and a uniformed female officer, identified by the investigation as SGT Humburg and described as a female officer in her 40s, standing 5', with a slightly overweight body type and blonde hair, came into the building and up to the roof with their guns pointed at the group on the roof. The men were cooperative, holding their hands in the air.

PO Butler, identified by the investigation and described as a Caucasian male in his early thirties, standing 6' tall, weighing 250 pounds, with a muscular build and very short blonde or brown hair, dressed in jeans and a black t-shirt, punched § 87(2)(b) in the face. § 87(2)(b) fell to the ground. An unidentified Caucasian male officer, who § 87(2)(b) could not describe further, kicked § 87(2)(b)'s right hip, knocking him off his chair and forced him to the ground, holding his gun to § 87(2)(b)'s head. An unidentified Caucasian male officer who § 87(2)(b) could not describe, then pulled § 87(2)(b)'s left arm and rolled him over, then searched his front shorts pockets and removed the contents, which included money and credit cards loose in his right front pocket. Officers kicked § 87(2)(b) and § 87(2)(b) to the ground as well. § 87(2)(b) saw PO Giannelli, identified by the investigation and described as a 28-35-year-old light-skinned Caucasian male, standing 5'11 - 6' tall, with a skinny build and slicked back hair, wearing white shorts and a blue shirt, pointed his gun at § 87(2)(b)'s head.

The officers found a container of mace on an adjacent roof area. § 87(2)(b) and § 87(2)(b) were transported to the 103rd Precinct stationhouse by PO Giannelli, who drove the vehicle, and PO Butler. At the stationhouse, § 87(2)(b) saw PO Butler writing summonses, and received two summonses for unauthorized possession of police mace. § 87(2)(b) and § 87(2)(b) each received one summons for unauthorized possession of police mace.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on September 5, 2012 (encl. C13-18).

On August 25, 2012, § 87(2)(b) was wearing navy blue basketball shorts and Crocs, which left his ankle visible. § 87(2)(b) had fractured his ankle a few days prior to this. The ankle was extremely swollen, and had a loose bandage around it. § 87(2)(b) also had a cane with him. § 87(2)(b) had blood clots in his foot which had caused the sole of his foot to appear purple.

Five or ten minutes after § 87(2)(b) called 911 about the shots being fired, § 87(2)(b) heard “Police, police” from the steps up to the roof. § 87(2)(b) was sitting closest to the door to the roof, which was open. § 87(2)(b) looked over to his left, to see PO1, described as a Caucasian male officer in his 30s, standing 5’5”-5’6” inches tall, weighing 160 pounds, with a double chin and black hair, wearing a navy blue football jersey, with his gun drawn, running up the steps. PO1 screamed, “Don’t look at me,” and came over to § 87(2)(b) then the officer struck § 87(2)(b) in the left temple, close to his eye with the bottom of the clip of his gun, and said, “Don’t move.” § 87(2)(b) did not move. PO2, described as a Caucasian male in his 30s, standing 5’9”, weighing 220 pounds, wearing a plain fitted baseball cap and a blue and grey jersey then kicked § 87(2)(b) in his left bicep area, causing him to fall to the ground. § 87(2)(b) was on the ground, facedown, with his left cheek touching the ground. PO1 pointed his gun at § 87(2)(b) face, in the area of his right temple, telling § 87(2)(b) to shut up and not to move. Then, PO2, asked PO1 for his handcuffs, and then placed § 87(2)(b) in handcuffs. The officers kept saying “Don’t look at me.” Two officers, PO3 and PO4, dressed in uniform, whose uniforms identified them as officers from the 107th Precinct were there, described as a Caucasian male, standing 6’, with a skinny build and dark hair, and a 25-year-old Asian male, standing 5’7”, weighing 180 pounds respectively.

During this time, the officers were asking the men on the roof questions, repeatedly saying “Where’s the gun? We know you guys have the gun, just tell us and we’ll go.” PO1 was saying, “Where’s the fucking gun? I know you guys have the fucking gun. Don’t waste my time.” § 87(2)(b) told PO2 that his ankle was fractured and his handcuffs were very tight, so he was in a lot of pain. PO2 put his foot against § 87(2)(b)’s left ankle and pressed down on it, saying “Where’s the gun? We know it’s up here.” The pressure caused § 87(2)(b) a lot of pain and he screamed involuntarily, at which point, the officer stopped pushing.

The officers then told the men to get up, which was difficult for the others, but impossible for § 87(2)(b) whose ankle was hurt. When everyone else was off the roof, the officers stood to the side and discussed § 87(2)(b) injuries, saying that they’d have to take him to the hospital. Another officer said that they should let him go, but they were unsure. The officers agreed to go downstairs and discuss it with the sergeant. SGT Humburg then came up to the roof and asked § 87(2)(b) to try to pick himself up. PO3, held § 87(2)(b)’s arm and helped him up. The officers removed § 87(2)(b) handcuffs so that he could walk downstairs.

When they got downstairs, a group of officers in plainclothes spoke with SGT Humburg, asking her what they should do with § 87(2)(b). One of them said, “I’m not taking him to the hospital, send him home.” A male officer, PO5, who § 87(2)(b) could not describe, told the officers to let § 87(2)(b) go, and said, “Go home before I lock you up,” to § 87(2)(b). § 87(2)(b) had a small bruise on his left temple, but did not suffer any additional injuries, besides additional pain to his ankle.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)

Phone Statement

§ 87(2)(b) provided a telephone statement to the CCRB on January 22, 2013 (encl. C24).

On August 25, 2012, around 4:00 or 5:00 p.m., § 87(2)(b) was with her two children in her apartment, inside § 87(2)(b) in Queens. § 87(2)(b)’s landlord, § 87(2)(b) who was identified by the investigation as § 87(2)(b) was on the roof with some of his friends. There were some guys outside their building. The external door to the building was unlocked that day because § 87(2)(b) and his friends were on the roof and frequently go in and out of the building. There is a second, internal door to the building, which is always unlocked.

§ 87(2)(b) heard gunshots across the street and heard a car passing. A Hispanic male in his early 20s, standing 5'4"-5", came inside because the door to the building was open. § 87(2)(b) and her 2 children passed the man, who was in the vestibule between the external and internal doors, as they left the building. § 87(2)(b) checked with the man, who was bleeding and said he had been grazed by a bullet, but was okay. § 87(2)(b) continued walking to the park with her children. As she walked away, § 87(2)(b) saw officers arrive at and enter the building.

§ 87(2)(b) came back to the apartment after spending about 2 hours in the park. When § 87(2)(b) returned, she found that the lock of her door was broken, and assumed that officers had forced their way into her apartment, although the police were no longer there.

§ 87(2)(b) provided a telephone statement to the CCRB on January 22, 2013. The investigation later determined that § 87(2)(b) should be interviewed as a victim in this case. On June 19, 2013, a call was placed to § 87(2)(b) who requested a call back at another time and disconnected the call. Between June 25, 2013 and July 24, 2013, three additional calls were placed to § 87(2)(b). During the first call, a voicemail was left, during the next two calls, an automated message was left indicating that this number is out of service. On October 22, 2013, a search of the Department of Corrections Inmate Tracking System confirmed that § 87(2)(b) was not incarcerated with the City of New York while the CCRB was making efforts to contact her. To date, no letters have been returned to the CCRB by USPS.

Attempts to Contact Civilians

On August 31, 2012, the first call was placed to § 87(2)(b) and a voicemail message was left. On September 11, 2012, § 87(2)(b) called, explained that he did not have time to provide a phone statement and scheduled a CCRB interview for September 19, 2012, which he missed without calling in advance to cancel or reschedule. On September 21, 2013, § 87(2)(b) rescheduled his appointment for September 26, 2012, but then he emailed on September 26, 2012, to cancel his appointment. Following § 87(2)(b)'s missed appointment, two phone calls were placed and messages were left. Two letters were mailed and emailed to § 87(2)(b).

Between October 19, 2012 and February 7, 2013, five calls were placed to § 87(2)(b) and each time a voicemail message was left or § 87(2)(b) stated that she was not available to speak. Two letters were mailed and emailed to § 87(2)(b).

Between February 11, 2013, and February 19, 2013, two calls were placed to § 87(2)(b) at phone numbers which were disconnected; one call was placed to a number confirmed as a wrong number. Two letters were mailed to § 87(2)(b).

On October 22, 2013, a search of the Department of Corrections Inmate Tracking System confirmed that § 87(2)(b) and § 87(2)(b) were not incarcerated with the City of New York while the CCRB was making efforts to contact them. Without additional information for § 87(2)(b) a search of the DOC Inmate Tracking System could not be conducted for him. To date, no letters sent to § 87(2)(b) or § 87(2)(b) have been returned to the CCRB by USPS.

NYPD Statements:

Witness Officer: SGT MARY HUMBURG

- *SGT Mary Humburg is a § 87(2)(b)*
- *On August 25, 2012, SGT Humburg worked from 6:30 a.m. until 8:57 p.m., as Patrol Supervisor. At the time of the incident, SGT Humburg was working with PO Adam Gannon, who was her operator. SGT Humburg was dressed in uniform and assigned to a marked patrol vehicle, #§ 87(2)(b)*

Memo book

At 6:30 p.m., an assault in progress was reported, involving a male shot. Witnesses stated that a male was shot in front of [REDACTED] § 87(2)(b) [REDACTED]. Officers were unable to gain access. Multiple witnesses and MOS saw perpetrators on the building throw a black object. The door was taken. Three perpetrators were apprehended. Mace recovered. 3 arrests by SNEU (encl. D1-4).

CCRB Statement

SGT Humburg was interviewed at the CCRB on May 1, 2013 (encl. D5-7).

On August 25, 2012, multiple calls came over the radio concerning a male shot, who was inside [REDACTED] § 87(2)(b) [REDACTED]. There were 7-8 shots fired. SGT Humburg also recalled that the victim was a Hispanic male, who was bleeding and had reportedly run inside [REDACTED] § 87(2)(b) [REDACTED]. SGT Humburg later stated that the call had originally been reported at 139th Street and 90th Avenue, and there is another apartment building, adjacent to [REDACTED] § 87(2)(b) [REDACTED] at this intersection. SGT Humburg could not recall whether there was any information about the perpetrators or their direction of flight.

SGT Humburg went to [REDACTED] § 87(2)(b) [REDACTED] with PO Gannon. PO Butler, arrived at the same time, but SGT Humburg could not recall which officers he was working with. At the time SGT Humburg arrived, there were 5-7 white male officers, dressed in plainclothes, wearing NYPD jackets. SGT Humburg could not recall what command they were from. There were numerous outside commands present in the vicinity because a sergeant had been shot a week prior. At about the time she arrived, SGT Humburg heard an officer positioned on an adjacent rooftop report on the radio that he could see males on the roof and they had thrown a black object, which appeared to be a gun, off the roof. PO Gannon remained outside, conducting interviews with witnesses and monitoring the roof, in case anything was thrown from the roof.

The door to [REDACTED] § 87(2)(b) [REDACTED] was locked, there were no bells to ring for entry, and the officers were not able to find anyone who lived there. SGT Humburg made the decision to enter. SGT Humburg stated that she decided to enter the building because she felt that it may be an emergency situation, based on the reports of an injured victim of a shooting inside the building and also intended to go up to the roof to apprehend any perpetrators. SGT Humburg instructed the two biggest officers to force the door open. SGT Humburg could not recall the command of these officers, except that they were not from the 103rd Precinct, and could not describe them any further. The officers entered the building and SGT Humburg followed behind them, but could not recall whether PO Butler was immediately in front of or behind her. SGT Humburg saw PO Giannelli later when she came downstairs, but could not recall whether he entered the building and went to the roof with the first group of officers. The officers went up a total of three flights of stairs to the roof. The 5-7 plainclothes officers all entered the building, but some remained on the second floor. She did not see any of these officers enter any apartment on the second floor. A total of 4-5 officers went straight up to the roof: SGT Humburg, PO Butler, and the 2 males who had broken down the door. SGT Humburg was the only supervisor present in the building.

After the first flight of stairs, there may have been apartments on the second floor. At this point, SGT Humburg heard a noise, which sounded like male voices yelling and footsteps, coming from the roof, and proceeded upstairs. SGT Humburg could not recall what words or statements were yelled. SGT Humburg did not look around or stop on the 2nd floor and did not know if any of the other officers attempted to enter or entered the apartments on the second floor at this time. On the roof were 3-4 Hispanic and Indian males, sitting at a folding table, playing cards. Most of the males had their hands under a table. SGT Humburg came out onto roof with her gun pointed at the individuals and instructed them to show their hands. The other officers were also telling the men to show the officers their hands. SGT Humburg did not see whether the other officers had their firearms out. SGT Humburg stated that a few of them kept their hands under the table and then ultimately complied. SGT Humburg asked each of the males to stand up. Although at least one male complied immediately, SGT Humburg asked a second male, [REDACTED] § 87(2)(b) [REDACTED].

§ 87(2)(b) who had a walker or a cane and may have had a bandage in the area of his shin, and informed SGT Humburg that he was unable to stand up alone due to a prior injury. The males were placed in handcuffs while standing, except for one male. One male resisted, by tensing up his arms, holding them at waist level just above his lap, as SGT Humburg attempted to pull his arms behind his back, with the help of another officer she could not recall. SGT Humburg could not recall whether he had clenched his fists. The officers were unable to pull his arms behind his back and immediately handcuff this individual because he was big, he had stiffened his arms, and he was sweating profusely. SGT Humburg, with the assistance of the officer she could not recall, pulled this male by his arms to the ground. Each officer pulled on one of his arms, and the male remained tense. The male was handcuffed on the ground, about 2-3 minutes after he had initially been instructed to show his hands. SGT Humburg stated that § 87(2)(b) might not have been placed in handcuffs because he would have been unable to go downstairs in handcuffs. When asked specifically if § 87(2)(b) was ever placed in handcuffs during the incident, SGT Humburg did not recall. One of the males at some point said, "We saw what happened, it wasn't us," and explained that they had witnessed the shooting, but were not involved. Two males, including the bail bondsman, and another male SGT Humburg could not recall, were cursing, using the word "fuck," saying something to the effect of, "We didn't fucking do it, it's outside."

The males were all frisked on the roof, including § 87(2)(b) and the three males who were arrested were searched, incident to their arrest, although SGT Humburg could not recall if this took place before or after they were handcuffed. SGT Humburg did not see any other officers point their guns at the males at any point during the incident. SGT Humburg did not hear any officer use any discourteous language, including saying, "Get the fuck on the ground," "Shut the fuck up," or "Where's the fucking gun, I know you have the fucking gun, don't waste my time." Although SGT Humburg said and heard other officers saying, "Don't move," SGT Humburg did not recall any officer say, "Don't fucking move, don't move." No other force was used on the males on the roof. SGT Humburg did not see any officer strike § 87(2)(b) at all, including with a firearm. SGT Humburg did not see any officer kick § 87(2)(b) off his chair. SGT Humburg did not see any officer step on § 87(2)(b) ankle, which was injured. SGT Humburg did not see any officer push or kick any individual to the ground. No officer punched or kicked any of the individuals on the roof at any time during the incident. No officer pushed or hit the head of any of the males as he lay on the ground, causing him to strike his head on the ground. After they were handcuffed, the males were brought out of the building immediately.

Soon after arriving on the roof, the officers saw a black object on an adjacent roof, which was a container of mace. SGT Humburg did not access this roof, which is accessible through a window on the second floor, but the mace was recovered by another officer. When asked if she heard any discussion about a search of the second floor, SGT Humburg stated that she only heard officers say that the second floor was clear, there were no injured persons there, but did not know whether the officers had entered specific apartments to verify this because she did not witness this. When asked about the window which accesses the second roof, SGT Humburg stated that she only knew that she could not jump to the adjacent roof from where she was, but that she did not see how officers accessed that area. When presented with the duplicate summons issued to § 87(2)(b) SGT Humburg stated that there may have been two containers of mace. The two roof areas were searched, but SGT Humburg did not recall which officers searched. On the main roof, there was a folding table and 3 or 4 patio chairs. There may have been other tables on the roof, but not near the males. There was no furniture on the second roof. There was nothing recovered from the search. SGT Humburg did not search any other areas of the building. There was no sign of blood in the building nor was there a gunshot victim found within the building.

SGT Humburg could not recall whether all of the individuals who the officers encountered on the roof were placed under arrest and taken to the 103rd Precinct stationhouse. The officers did not know which of the other males had thrown the object off the roof, which the officers believed was mace, so they were all arrested.

At the 103rd Precinct stationhouse, the male who had worked as a bail bondsman had explained that he had kept the mace because of his former work, although he knew it was illegal and apologized. This individual stated that he had been arrested at the 103rd Precinct stationhouse previously and recognized an officer there, although SGT Humburg could not recall which officer. SGT Humburg made the decision to release the males with summonses.

Subject Officer: PO MICHAEL BUTLER

- PO Michael Butler was a § 87(2)(b) [REDACTED]
- On August 25, 2012, PO Butler assigned to the 103rd Precinct shooting detail, working with PO Giannelli, and assigned to an unmarked black Chevrolet Impala, #§ 87(2)(b) PO Butler was dressed in plainclothes and worked from 5:30 p.m. on August 25, 2012 until 2:05 a.m. on August 26, 2012.

Memo book

At 6:30 p.m. on August 25, 2012, there was a report of a male shot at § 87(2)(b) [REDACTED]. Caller states 3 males fired shots at male victim. Caller further states males are at § 87(2)(b) [REDACTED] on the roof of the building. Door locked. Upon entering building, 3 male perps on the roof, can of mace found on roof. § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] were taken into custody. Transport in 155. At 7:10 p.m., PO Butler arrived at the 103rd Precinct stationhouse. At 7:30 p.m., released 3 male perps with C summonses (encl. D 8-9).

Summonses

PO Butler issued four summonses. Two summonses were issued to § 87(2)(b) [REDACTED] for possession of mace. One summons was issued to § 87(2)(b) [REDACTED] for possession of mace and one summons was issued to § 87(2)(b) [REDACTED] for possession of mace (encl. D10-11).

CCRB Statement

PO Butler was interviewed at the CCRB on April 24, 2013 (encl. D12-14).

On August 25, 2012, at 6:30 p.m., a number of people called to report that a male had been shot at § 87(2)(b) [REDACTED] in Queens while PO Butler was at the 103rd Precinct stationhouse. PO Butler and PO Giannelli responded to the call as back up, no other officers travelled with them in their vehicle. PO Butler recalled that the officers were looking for more than one Hispanic male, but could not recall how many. He did not recall any information about the whereabouts or direction of flight provided in the first call. As the officers drove to § 87(2)(b) [REDACTED] they heard other officers asking for additional information over the radio, including asking the 911 operator to determine the location of the callers, because officers at the scene could not find the complainant or victim. At this point, the 911 operator stated that a caller had informed him that the perpetrators of the shooting were on the roof of a building in the vicinity.

When PO Butler and PO Giannelli arrived, there were already numerous plainclothes and uniformed officers at the location. SGT Humburg was present. PO Butler could not recall the identities of any other officers present, explaining that these officers were from different commands. One of the uniformed units, the identities of which PO Butler did not know, checked the building opposite § 87(2)(b) [REDACTED] and conducted a vertical patrol, going up to the rooftop, from where they were able to see the roof of § 87(2)(b) [REDACTED] and verified that there were males on the roof. When PO Butler and PO Giannelli arrived, no officers had entered § 87(2)(b) [REDACTED] and the door was locked.

Four or five plainclothes white male officers entered § 87(2)(b) [REDACTED] in front of PO Butler. PO Butler and PO Giannelli followed and climbed the stairs and went to the rooftop. A total of 5-6 officers entered the building at this time. SGT Humburg entered the building at this time, but was behind PO Butler. PO Giannelli entered the building and went to the roof, but PO

Butler could not recall if he was in front of or behind him. Subsequently, uniformed officers also came up to the roof. The ground floor is a deli, while the staircase goes straight up to the roof, and passes a room on the second floor.

On the roof, were four males, identified via the investigation as § 87(2)(b) and § 87(2)(b). The officers all asked everyone to get on the ground. All of the officers had their guns drawn, and PO Butler stated that he did not recall whether the officers had their guns pointed at the males, but assumed that the officers had their guns pointed. PO Butler's firearm was drawn and he stated that he likely pointed it at individuals, but he could not recall specifically which individuals. PO Butler saw officers with two of the males in front of him already on the ground, with their hands behind their backs in handcuffs or being placed in handcuffs. PO Butler could not recall how many officers were handcuffing these two males. There were at least 2 additional males (PO Butler could not recall how many exactly) standing near the door to the roof. As the officers approached these males, the males got down and lay on the ground. PO Butler was instructing the males to his left to get on the ground, but could not recall specifically who he approached and interacted with. PO Giannelli was also on the roof, but PO Butler did not see which male he was interacting with and did not recall what PO Giannelli did specifically. PO Butler did not see any officer use any force, beyond what was listed above, in apprehending the four men. PO Butler did not say, or hear any other officer say, "Don't fucking move, don't move," although officers were telling the civilians not to move. PO Butler did not strike any person with his gun nor did he see any other officer strike any individual with their gun.

All the males were placed in handcuffs. PO Butler handcuffed one of them, but could not recall who. The males were not fighting or resisting, but were asking what was going on. A couple of the males, he could not recall who, were yelling, and could not recall any specific statements, but that they were questioning what the officers were doing. PO Butler did not and did not see any other officer move, drag, or walk any individual towards the side or the edge of the roof.

The officers searched the roof, looking for a gun. No gun was found. The only thing that was recovered from the search was one can of mace. PO Butler did not recall who recovered the mace, but did not think he had found it, and could not recall whether he was present when it was recovered. PO Butler later stated that he could not recall whether the mace was found on an adjacent, lower roof. Officers also searched the adjacent, lower roof, although PO Butler could not recall whether he searched that area. PO Butler could not recall whether he entered either of the apartments inside the building, stating that officers may have checked one of these apartments on their way into the building, but he could not recall. PO Butler did not recall any officer using discourteous language towards any of the males on the roof. Specifically, PO Butler did not remember saying or hearing any officer say, "Get the fuck on the ground," or "shut the fuck up." PO Butler did not recall saying or hearing any officer saying, "Where's the fucking gun? I know you guys have the fucking gun. Don't waste my time." The officers were on the roof for about ten minutes in total.

PO Butler could not recall whether he escorted any of the males out of the building. PO Butler transported 3 males to the 103rd Precinct stationhouse in his vehicle. PO Butler not hear nor did he say to any of the males, "Go home, before I lock you up." The three males were brought to the 103rd Precinct stationhouse. SGT Humburg decided to release the males with summonses for possession of police mace. PO Butler issued summonses for the unlawful possession of police mace. PO Butler stated that there was a clerical error, resulting in 2 summonses issued to § 87(2)(b) for the same thing, one of which was voided. PO Butler did not recall specifically saying or hearing any officer say to § 87(2)(b) that he needed to leave the stationhouse, and would be arrested if he did not, but stated that he may have said that if § 87(2)(b) was being loud and irate

Subject Officer: PO JACOB GIANNELLI

- PO Jacob Giannelli is a § 87(2)(b)

- PO Jacob Giannelli is a § 87(2)(b)

On August 25, 2012, PO Giannelli was assigned to SNEU, working with PO Butler, assigned to an unmarked dark blue Chevrolet Impala, #§ 87(2)(b). On August 25, 2012, PO Giannelli worked from 2:00 p.m. until 8:35 p.m.

Memo book

PO Giannelli did not have any memo book entries regarding this incident (encl. D15-16).

CCRB Statement

PO Giannelli provided the following statement to the CCRB on May 7, 2013 (encl. D17-19). His statement was consistent with SGT Humburg's statement with the following exceptions noted.

When he arrived at § 87(2)(b) in Queens, PO Giannelli saw approximately 15 officers from a variety of commands, the majority of them were plainclothes officers, while less than five were uniformed officers. PO Giannelli did not recall officers from the 107th Precinct being present. Other than PO Butler and SGT Humburg, PO Giannelli could not recall the names or describe any other specific officers who were present, and could not recall who SGT Humburg's operator was.

PO Giannelli and PO Butler exited their vehicle. There were individuals on the roof of the location who were possible subjects of an investigation, but PO Giannelli did not recall how he obtained this information, and did not see anyone on the roof. PO Giannelli remained outside the building, watching the roof for signs of any evidence or to see if anything was thrown down. He could not recall if he was instructed by a supervisor to do this. PO Giannelli did not specifically recall any reason for concern about something being thrown off the roof, but stated that this is a common concern if perpetrators are on the roof. PO Giannelli did not see PO Butler enter the building, and did not see or know what he was doing during this time. PO Giannelli stated that he was at the side of the building watching the roof and the windows, not near the front of the building.

When they arrived, PO Giannelli initially stated that no officers had entered the building yet, but later clarified that he saw officers moving in and out of an open door on the street level when he arrived.

An unknown amount of time after PO Giannelli had arrived at the location, a number of officers came downstairs with at least two people in handcuffs, one of whom was a Hispanic male, who he could not describe further, and did not recall any distinctive behavior from this person.

PO Giannelli did not and did not see any other officer point his firearm at any civilians or have their firearms drawn at any time. PO Giannelli did not hear any officer use discourteous language. PO Giannelli did not say or hear any other officer say, "Get the fuck on the ground," "Shut the fuck up," "Where's the fucking gun, I know you guys have the fucking gun, don't waste my time," or "Don't fucking move, don't move." PO Giannelli did not and did not see any other officer punch or kick any of the civilians, nor did he see anyone hit an individual's head into the ground. PO Giannelli did not see any officer hit an individual with a gun. PO Giannelli did not and did not see any other officer search anywhere on the roof, the lower roof, or in the

apartments on the second floor. PO Giannelli did not and did not see any officer step on any individual's ankle. PO Giannelli did not recall any discussion about one individual being released rather than arrested and did not say or hear any officer say, "Go home before I lock you up." PO Giannelli did not frisk or search any individuals. When presented with photographs of § 87(2)(b) and § 87(2)(b) PO Giannelli did not recognize them.

PO Giannelli did not recall what happened to the individuals who were detained. When informed about the release of these individuals with summonses, PO Giannelli did not recall anything about this. PO Giannelli did not and did not hear any officer instruct an individual to leave the stationhouse or he would be arrested.

Witness Officer: SGT OMAR COLON

- *SGT Colon is a § 87(2)(b)*
- *On August 25, 2012, SGT Colon did not provide complete information about his assignment, tour, or partner. Based on the roll call, SGT Colon stated that he was working as the CRV (Critical Response) supervisor, and his operator was PO Barnes, who was working 3:00 p.m. until 11:35 p.m. on August 25, 2013. They were assigned marked police car, #§ 87(2)(b)*

Memo book

At 6:30 p.m. SGT Colon responded to a call for a gun at § 87(2)(b) § 87(2)(b). At 6:55 p.m. SGT Colon left the scene as SNEU team handled the call (encl. D25-26).

CCRB Statement

SGT Colon was interviewed at the CCRB on September 26, 2013 (encl. D27-29).

On August 25, 2012, SGT Colon was on routine patrol at an unknown location when he heard a radio transmission concerning shots fired or a gun run in the vicinity of § 87(2)(b) § 87(2)(b) in Queens. When SGT Colon arrived there were already units on the scene, including 5-6 cars (and therefore approximately 10-12 officers) from the 103rd Precinct, predominantly in uniform. SGT Colon stated that PO Butler, PO Giannelli, PO Durkin, and SGT Humburg were present, after referring to the allegations sheet which lists these officers. SGT Colon thought that at the time he arrived at the location, officers were trying to access § 87(2)(b) § 87(2)(b) but had not gained entrance.

SGT Colon went to the building diagonally across the street, on the southwest corner of the intersection and gained access to its roof with PO Barnes to see the roof of § 87(2)(b) § 87(2)(b) in Queens. From the roof, SGT Colon saw 3-5 individuals, mainly males, on the rooftop, sitting at a table, apparently playing a game. SGT Colon stated on the radio that he could see people on the rooftop. SGT Colon did not observe any weapons. Either just before the officers came up the stairs or as they exited onto the roof, SGT Colon saw one of the individuals throw something off the roof, although he did not recall which direction, it may have been to the side or behind the building. SGT Colon stated that it was a solid object, but could not describe it further because he did not recall the color or size. SGT Colon could not recall whether he observed officers entering the building or where they entered.

SGT Colon saw the door that leads onto the roof open and 4-5 officers, mainly males, dressed in both plainclothes and uniform from the 103rd Precinct exit onto the roof through that door. Either PO Durkin or PO Butler, or possibly both of them, were among them, as well as PO Giannelli. SGT Colon could not recall whether SGT Humburg came out onto the roof. SGT Colon saw an officer appear as though he told everyone to get on the ground. He saw officers handcuffed all of the individuals. SGT Colon thought that everyone appeared to be compliant with the officers and did not observe any significant resistance. SGT Colon did not see any additional force being used. SGT Colon could not hear what was happening across the street, he

explained that he was yelling at the officers, but they could not hear him. The officers searched around the main roof area, SGT Colon did not see any officers search an adjacent lower roof area.

The officers appeared to have the situation under control. About ten minutes after they had arrived, SGT Colon exited the building onto the street. SGT Colon did not hear anything about a search of the building and did not hear any officer say, “Go home before I lock you up,” to any of the individuals from the roof. SGT Colon did not recall the names of any other officers outside on the street. Soon after, SGT Colon left the location in his vehicle with PO Barnes and returned to patrol. Neither PO Barnes nor SGT Colon entered [§ 87(2)(b)] SGT Colon did not see the individuals from the roof on the street or at the stationhouse.

Other officers interviewed

- PO Adam Gannon was interviewed at the CCRB on September 24, 2013 (encl. D23-24). His memo book noted that at 3:37 p.m. he went to fuel the vehicle and the next entry, at 10:40 p.m., noted that he responded to an assault in progress (encl. D21-22). After being shown photographs and explained the nature of the incident, PO Gannon did not recall being at the incident location.
- PO Christopher Durkin was interviewed at the CCRB on September 24, 2013 (encl. D32-33). His memo book noted that he was at Queens Central Booking for his entire tour (encl. D30-31). He stated that he was at Queens Central Booking for his tour and after being shown photographs and being told the nature of the incident, he did not recall being present.
- PO Albert Yung was interviewed at the CCRB on December 11, 2013 (encl. D33c-d) His memo book noted that he was at 71 Kissena Boulevard in Queens at 5:10 p.m. and that he ended his tour at 11:35 p.m. (encl. D33a-b). PO Yung after being shown photographs and being told the nature of the incident, he did not recall being present.

NYPD Documents

Sprint

- Sprint # [§ 87(2)(b)] shows numerous calls in the area for shots fired. Units 103st1, 103C, 103SGT, and 103F respond to the scene. A sergeant calls for ESU Aviation unit to locate an object on a roof. An aviation unit responds and notes that there is no object on roof (encl. D34-37).
- Sprint # [§ 87(2)(b)] shows numerous calls for shots fired and EMS arriving (encl. D38-39).

Sprint Recordings

- The Sprint recording shows eleven 911 calls were placed regarding the shooting. The first caller stated that there were shots fired from a vehicle and noted that there were individuals on the roof who were not involved in the shooting. Four other callers state that individuals in a black vehicle shot an individual in front of [§ 87(2)(b)] in Queens. One male caller stated that a victim was taken inside of [§ 87(2)(b)] in Queens and that there were four individuals on the roof of that building with guns. A female caller called back and stated that there were five people on the roof of [§ 87(2)(b)] lying down on the roof. An anonymous caller stated that police went to roof of [§ 87(2)(b)] but these individuals were on the roof when the shooting occurred and the caller does not believe they were involved (encl. D40).
- Radio communications—The radio communication shows the dispatcher stating that there was a shooting at the incident location and that the victim was brought inside the incident location. A female sergeant stated she was at the location and did not see the victim. The call goes out for the 102nd Precinct and the 105th Precinct. The operator stated that there were 3 males on the roof, possibly in possession of a gun.

The 103rd Precinct's sector C officers arrive and the 103rd officers state that they cannot get inside the building. They request ESU aviation. The 103 CRV sergeant stated that he conducted a vertical at the neighboring building and saw four people on the incident location's rooftop who appear unconcerned about the incident. He then stated that numerous objects were tossed off that rooftop onto the Laundromat's roof top next door. The 103rd unit then stated that four individuals were in police custody (encl. D41).

Command Log

The command log for August 25, 2012 has three arrest stamps related to this incident. The first stamp listed PO Butler as the arresting officer of § 87(2)(b) for possession of an asp and mace. The second stamp listed PO Butler as the arresting officer of § 87(2)(b) for possession of an asp and mace. The last stamp listed PO Butler as the arresting officer of § 87(2)(b) Chandarat for possession of police mace. All three entries noted that the individuals were released with summonses (encl. D63-63).

Roll Calls

The roll call for the 103rd Precinct notes that PO Gannon was SGT Humburg's operator, PO Giannelli was assigned to SNEU, PO Butler was assigned to a special detail, and SGT Humburg was assigned to extended patrol. The roll call also notes that PO Pamela McDowell and PO Crystal Martin were assigned to patrol sectors CDE and that PO Stephen Daly was assigned to patrol sectors FG (encl. D42-59).

The roll call for the 107th Precinct notes that there were two pairs of white and Asian male officers working together on the date of incident. PO Mathew Kordecki and PO Navdeep Singh were assigned to a post at JFK Airport and PO Aleksandr Vygon and PO Albert Yung were assigned to sectors EFJK (encl. D69-76).

MOS Photograph

The MOS Photograph of PO Navdeep Singh depicts a southern Asian male officer with black hair (encl. D77).

Summonses for Incident and Dispositions

- On November 21, 2013, the Queens County Criminal Summons line stated that all three of the summonses issued in this case § 87(2)(b) were deemed defective because the officers did not sign the summonses (encl. F18).

Status of Civil Proceedings

- FOIL request for Notice of Claim was filed on November 19, 2013. Results of this request are still pending (encl. F17).

Civilians Criminal History

- As of November 19, 2013, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) for the past five years (encl. F18).
- As of November 19, 2013, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) for the past five years (encl. F18).
- As of November 19, 2013, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) for the past five years (encl. F18).
- As of November 19, 2013, neither BADS nor E-Courts have any record of § 87(2)(b) having been arrested (encl. F18).

- § 87(2)(b)

Civilians CCRB History

- This is the first CCRB complaint to which § 87(2)(b) has been a party (encl. B7).
- This is the first CCRB complaint that § 87(2)(b) has filed (encl. B8).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (encl. B9).
- § 87(2)(b)

- § 87(2)(b)

Subject Officers CCRB History

- SGT Mary Humburg has been a member of the service for 10 years and there are no substantiated CCRB allegations against her (encl. B1-2).
- PO Michael Butler has been a member of the service for 3 years and there are no substantiated CCRB allegations against him (encl. B3).
- PO Jacob Giannelli has been a member of the service for 3 years and there are no substantiated CCRB allegations against him (encl. B4).

Conclusion

Identification of Subject Officers

SGT Humburg acknowledged entering § 87(2)(b) in Queens and interacting with the group of males on the roof of that building. She also acknowledged that she was the only commanding officer on the roof at that time and her pedigree information matches that provided by § 87(2)(b).

PO Michael Butler acknowledged entering § 87(2)(b) in Queens and he acknowledged interacting with the group of males on the roof of that building. Their pedigree information matches that described by § 87(2)(b).

PO Jacob Giannelli did not acknowledge entering the roof or interacting with the individuals on the roof of § 87(2)(b) in Queens. However, PO Butler and SGT Colon both place PO Giannelli on the roof and § 87(2)(b)'s description of PO Giannelli matches PO Giannelli's pedigree information.

§ 87(2)(b) described two uniformed officers from the 107th Precinct, one Asian male and one white male, present during the interaction. The 107th Precinct roll call shows that there were only two pairs of officers working on the date and time of incident that match this description. PO Yung, whose partner was PO Vygon, testified that he was not present for the incident and he placed himself and PO Vygon within the confines of the 107th Precinct. PO Singh and PO Kordecki were assigned to a special detail at JFK on the date of incident. The MOS Photograph of PO Singh revealed that he does not match the physical description provided by § 87(2)(b) and thus he and PO Kordecki were excluded from the investigation.

All of the complainants, victims, and officers interviewed describe other officers on the roof of § 87(2)(b) in Queens. § 87(2)(b) and § 87(2)(b) describe these

officers as using force and discourteous language against the victims of this complaint. However, none of the officers interviewed knew what command these officers hailed from, and they noted that numerous officers arrived from various commands, given that a sergeant was shot in the area a week before the incident. The Sprint only shows officers from the 103rd Precinct as responding and the complainants and victims were unable to describe these officers with sufficient detail to differentiate them from each other. No photo array was scheduled as there was no feasible pool from which to draw officer photos and as the complainants and victims were not able to sufficiently see the officers to describe them. As such, the subject officers to these force allegations could not be identified.

§ 87(2)(b) alleged that officers entered a vacant apartment. However, he did not see the officers search his apartment, thus he could not identify the officers who entered the vacant apartment. None of the officers interviewed acknowledged seeing officer enter any apartments in § 87(2)(b). Therefore the officers who were the subjects to this allegation could not be identified.

§ 87(2)(b) alleged that when she returned to her apartment, after officers had left the vicinity, she found her apartment lock broken and she believed that officers had entered her apartment. None of the officers who were interviewed acknowledged entering any of the apartments in § 87(2)(b) nor did they recall seeing any officer enter this apartment. Therefore the officers who were the subjects of this allegation could not be identified.

§ 87(2)(b) alleged that he was told to leave the vicinity of the incident location or that he would be arrested alongside the other victims of the complaint. § 87(2)(b) could not describe the officer who stated this. § 87(2)(b) the only other complainant who heard this threat, could not recall which officer stated this. None of the officers interviewed acknowledged hearing this statement. Therefore the subject of this allegation could not be identified.

Allegation Not Pled

§ 87(2)(b) alleged that an officer threatened to arrest him if he did not leave the 103rd Precinct stationhouse. However, § 87(2)(b) was inside of a private building and was told to leave the building. Therefore the statement that § 87(2)(b) could be arrested if he refused to leave the stationhouse was a statement of fact and therefore has not been pled.

§ 87(2)(b) alleged that PO Butler and PO Giannelli pushed him and § 87(2)(b) Ramalho to the ground and handcuffed them. § 87(2)(b) alleged that PO Butler and PO Giannelli kicked him and § 87(2)(b) to the ground and handcuffed them. The amount of force alleged by both individuals is minimal and is consistent with handcuffing procedures. Therefore no allegation of force has been alleged against PO Giannelli and PO Butler for this action.

Investigative Findings and Recommendations

Allegation A: Abuse—Officers pointed their guns at § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) SGT Humburg, and PO Butler all acknowledge that when officers approached the individuals on the roof, they had their guns drawn and pointed at the four men. It is not disputed that shots were fired in the immediate vicinity of § 87(2)(b) in Queens. The Sprint recordings show at least one caller stating that the men on the roof have firearms.

In *Police Department v. Gliner*, OATH Index No. 955/00 (Sept. 6, 2000), the court found that an officer is permitted to draw her weapon when she has reasonable fear her or another person's safety (encl. A4-24).

§ 87(2)(g)

Allegation B: Discourtesy— Officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

Allegation C: Force— An officer struck § 87(2)(b) with a gun.

Allegation D: Force— An officer pointed his gun at § 87(2)(b)

Allegation G: Force— Officers used physical force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

Allegation I: Abuse— Officers entered § 87(2)(b) in Queens.

Allegation J: Abuse— An officer threatened to arrest § 87(2)(b)

As noted above, the investigation was unable to determine the identity of the officers who were the subjects of these allegations. § 87(2)(g)

Allegation E: Force— PO Michael Butler pointed his gun at § 87(2)(b)

Allegation F: Force— PO Michael Butler used physical force against § 87(2)(b)

§ 87(2)(b) stated that PO Butler pointed his firearm at his head, pressing his gun into his temple, after he was taken to the ground and then used his elbow to push § 87(2)(b)'s head into the roof. § 87(2)(b) stated that PO Giannelli pointed his firearm at § 87(2)(b)'s head. § 87(2)(b) did not testify to seeing this allegation.

PO Giannelli denied seeing a firearm drawn and pointed at any time and he denied that he had drawn and pointed his firearm. SGT Humburg stated that officers had their firearms drawn and pointed at the individuals when they first entered the roof, but she did not specifically state that an officer pointed his firearm at § 87(2)(b)'s head. PO Butler acknowledged having drawn his firearm and he was uncertain as to whether or not he pointed his firearm at any individual. PO Butler denied using any force additional to handcuffing the individuals.

§ 87(2)(b), § 87(2)(g)

Allegation H: Abuse— Officers threatened § 87(2)(b) with the use of force.

§ 87(2)(b) was uncooperative with the investigation. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Team: One

Investigator:	_____	<u>Nicholas Carayannis</u>	<u>December 13, 2013</u>
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date